

From: Ohairy1@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57am
Subject: Microsoft Settlement

[Text body exceeds maximum size of message body (8192 bytes). It has been converted to attachment.]

I oppose the settlement reached in the Microsoft antitrust case. I am not a lawyer and I had a lot of trouble as a result, trying to follow the documents made available to the public at:
<http://www.usdoj.gov/atr/cases/ms-settle.htm#docs> but I and my family and business do use computers, and the outcome of this case is critical to our future.

I just fail to see that there is any penalty in the settlement, and I fail to see any admission of guilt on the part of Microsoft (MS) or its senior executives. On the contrary, with the exception of the fact that there will be three people charged with monitoring MS for a very limited time (MS has been making flagrant violations of law and of ethics for over twenty years!), there seems to be no penalty at all. There is no fine, and there is no breakup. Historically (to the best of my recollection, including AT&T and Standard Oil) in the case of major monopolies a breakup always came about which would allowed increased competition not only with outside competitors but also among the various new units resulting from the breakup.

I am also concerned about the Department of Justice's (DOJ's) and the Government's interest in the public interest. It was explained shortly after the September 9, 2001 terrorist attack that the government felt the pursuit of justice with respect to MS was not a high priority. I was shocked at the comments. No other felon was let off the hook because of the events of 9-11.

I am further concerned about major political contributions made in 1999 and earlier and the impact that they have on the Government's view of what is right and wrong and what penalties should be imposed. The specter of impropriety is certainly present.

And I am concerned about MS's influence during this public comment phase because in the past it has been demonstrated that MS has orchestrated a f??stuff the ballot box?? approach which they have taken many times in the past while trying to influence the Government and the public to act in its (MS's) behalf. One recent example of this was reported by ZDnet News (<http://news.zdnet.co.uk/story/0,,t269-s2102244,00.html>):
<<In December, Java was more popular than .Net for building Web services, according to a ZDNet UK poll, but weeks later the position had dramatically reversed; investigation revealed just what lengths Microsoft will go to to promote its products
>>

Thus I wouldn't be surprised at all if they have tried to rig this public comment phase of the f??settlement?? toward their own best interest.

What has the impact of MS's collective behavior, ongoing yet today, been on the public? Take the cost of computer operating systems as but one apparent example.

A competitor with about 5% of the market sells its new operating system, Mac OS X v10.1, for a recommended retail of \$129. Updater packs were made available to users of the earlier OS X v10.0 for free, for about 5-6 weeks after release. After that the updater package costs \$19.95 direct from the manufacturer, with proof of ownership of the v10.0 software. Microsoft meanwhile also introduced a new operating system (well, a modification to Windows 2000) called Windows XP (Win XP). The updater for the f??home?? edition has a recommended retail of \$99, while the full version of this edition is \$199. But to get the full-featured version one needs to buy the f??Prof?? edition for which the upgrade costs \$199 and the full version costs \$299! I note that Mac OS X v10.1 is a full blown OS, not a f??Home?? version, and that the full-blown networking capability built into OS X can only be obtained on the Windows/Intel platform (IBM compatibles, or f??PCs??) by buying Win XP Pro.

Further more, the lack of competition permits these overpriced products to be inferior in many ways. One way seen by all in recent weeks is the admission by Mr. Gates that MS's products lack security. Indeed many security updates have already been released for Windows XP which MS calls f??The World's Most Secure Operating System??. Security and freedom from attack by viruses have plagued the Windows-based software for years, and yet because there are no real alternatives the public has little to no choice or say in the issue.

Given that the MS user base is about 90% of the marketplace worldwide, versus Apple's 5% (with the balance being distributed among users of Linux, Unix, BeOS, IBM's OS2 and a few others), and that Win XP was in development about a year versus some 6-8 years for Mac OS X, there is something drastically wrong with this pricing structure in that the products from Microsoft, by any comparison or analysis, are dramatically overpriced.

But what in the settlement addresses this? What penalty is imposed for the past practice of overcharging for products that has resulted because of the monopoly obtained by illegal and unethical business practices?

Further the company has taken steps in Windows XP to further defeat competition! For instance, the plug-in for the international streaming media standard for the Internet, namely QuickTime, was deleted from this version and further the former version of the plug-in no longer works because of a slight change in the code of this operating system (OS). Another example is that MS made other changes to Win XP which drop support for what was called NetBEUI, which made communication between PCs and Macintosh computers (using programs such as MacSOHO and Thursby's DAVE) possible. And yet, while MS has dropped support for NetBEUI, their own web site makes it available for installation into XP, but has a very obtuse statement, on a page called "How to Install the Netbeui Protocol on a Windows XP-Based Computer" posted October 25, 2001 at:

<http://www.microsoft.com/WINDOWSXP/pro/using/itpro/networking/netbeui.asp>

The statement on this page reads: "This article describes how to install the NetBEUI protocol on a Windows XP-based computer. This may be useful because the NetBEUI protocol is not included in the list of installable protocols in Windows XP even though the files that are needed to install the protocol are included with the installation CD-ROM. It is important to note that the NetBEUI protocol is not supported on Windows XP."

So the attempts by MS to defeat any competition by questionable means continues even through and beyond the judgment of guilt and the pursuit of the penalty for that guilt!

Thus, to this day, the leadership of Microsoft continues its practices, and refuses to admit any guilt. In and fact in public appearances both Mr. Gates and Mr. Balmer have denied any wrongdoing or any guilt either by the members of the leadership or by the corporation, and not only are non-repentant but also seem to taunt the world to do anything about their behavior!

How, I ask, is a panel of three over a period of five years, going to end these practices and bring about legal and fair behavior not only in terms of the competition MS faces, but also in terms of the pricing of its monopolistic products? It can't and it won't. The behavior and business practices continue to this day and will march on into the indefinite future.

Indeed ALL settlements to date seem to have been dictated to the prosecutors and the various governments and individuals bringing suit in all trials. ALL these settlements enhance MS's long-term dominance, and do essentially nothing to penalize it or to force it into a position where the end of unfair, illegal, immoral, unethical and anticompetitive can be assured!

In closing, I am dismayed that the illegal tying of features to its software which inhibit and prohibit competition is not being pursued but indeed is continuing unflagged, I am dismayed that there is no economic penalty imposed. I am dismayed that the same leadership which resulted in the flagrant violations in the first place will continue to guide this company and that the company has not been broken into separate divisions with new management. I am dismayed that nothing anywhere addresses the overpricing of inferior products which has occurred for decades and which continues to this day. And I am dismayed that the attempt to prevent future behavior is, as a result of the flaws noted in the settlement, totally inadequate to the task.

I sincerely hope that as a result of these considerations, the settlement reached will be vacated and that the Department of Justice will dictate to

Microsoft the penalties which should be forthcoming, instead of allowing Microsoft to dictate what it is willing to accept.

With sincere regards,
Robert J. Patterson, II
1825 SE Mandrake Circle
Port St. Lucie Florida 34952
Ohairy1@aol.com